

**OCT 10 2007**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

GUILLERMO JAVIER DUENAS  
FLORES; et al.,

Petitioners,

v.

PETER D. KEISLER,\*\* Acting Attorney  
General,

Respondent.

No. 07-71297

Agency Nos. A75-698-915  
A75-751-741

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted October 1, 2007\*\*\*

Before: B. FLETCHER, BERZON and IKUTA, Circuit Judges.

Guillermo Javier Duenas Flores and Silvia Tarula De Duenas petition for

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

\*\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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review of the Board of Immigration Appeals' ("BIA") order denying their motion to reconsider.

This court lacks jurisdiction to review the BIA's refusal to reopen removal proceedings *sua sponte*. See *Ekimian v. INS*, 303 F.3d 1153, 1159-60 (9th Cir. 2002). Accordingly, the court *sua sponte* dismisses the petition for review in part.

Petitioners contended that the BIA's February 16, 2007 finding that they were barred from cancellation of removal because they failed to depart pursuant to a grant of voluntary departure was erroneous. The BIA agreed in its order on the motion to reconsider. Nonetheless, the BIA did not abuse its discretion by denying the motion to reconsider its February 16, 2007 denial of petitioners' untimely motion to reopen. See 8 C.F.R. § 1003.2(b)(1); *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). The regulations provide, with certain exceptions that do not apply to this case, that a motion to reopen "must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened." See 8 C.F.R. § 1003.2(c)(2).

Accordingly, the court *sua sponte* denies the petition for review in part because the questions raised by this petition for review are so insubstantial as not to require

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further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

All other pending motions are denied as moot.

The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**